

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

CASE NO. 7:08-CV-302

0.094 ACRES OF LAND, MORE OR LESS,
SITUATED IN HIDALGO COUNTY,
TEXAS; AND EDIBERTO B. REYNA, JR.,
ET AL.

Defendant.

JOINT MOTION TO EXTEND SCHEDULING ORDER DEADLINES

Plaintiff, United States of America (hereafter “United States”) and Defendant Pamela Rivas respectfully move for a continuance of the deadlines set out in the Scheduling Order¹ and Order Extending Discovery Deadline.² The parties request this continuance in light of a January 20, 2021 Presidential Proclamation directing a 60-day period for the United States to develop “a plan for the redirection of funds concerning the southern border wall.”³

PROCEDURAL HISTORY

1. On June 12, 2020, the Court entered a Scheduling Order for this case⁴ and later granted an extension of the discovery deadline to March 15, 2021⁵ upon joint motion of the parties.⁶

¹ Dkt. No. 127.

² Dkt. No. 133.

³ Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

⁴ *Id.* at Sec. 2.

⁵ Dkt. No. 127.

⁶ Dkt. No. 133.

2. On January 7, 2021, the Court denied a joint request to further extend discovery deadlines.⁷
3. Prior to the January 20, 2021 Presidential Proclamation, the parties were prepared to meet all deadlines as currently laid out by the Court.

RELIEF REQUESTED

4. In light of the January 20, 2021 Presidential Proclamation directing multiple federal agencies to formulate “a plan for the redirection of funds concerning the southern border wall” within 60 days,⁸ the parties respectfully request this Court issue a 60-day continuance for all currently pending deadlines, including deadlines set out for discovery, pretrial motions, pretrial conferences and trial scheduling as set out in the Scheduling Order⁹ and Order Extending Discovery Deadline.¹⁰ The continuance sought will not prejudice the parties and will preserve judicial and party resources as set out below.
5. This is a federal land condemnation action seeking to acquire property “to construct roads, fencing, vehicle barriers, security lighting, and/or related structures designed to help secure the United States/Mexico border within the State of Texas.”¹¹
6. Although this case commenced against Defendant Pamela Rivas in 2008,¹² the current Amended Complaint was filed on May 13, 2020,¹³ and condemned four new tracts of land owned by Defendant Rivas for the first time, described as Tracts RGV-MCS-1107, RGV-MCS-1108, RGV-MCS-1108-2, and RGV-MCS-1108-3.¹⁴
7. On January 20, 2021, President Joseph R. Biden executed a Presidential Proclamation

⁷ Dkt. No. 134.

⁸ Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021) at Sec. 2.

⁹ Dkt. 127.

¹⁰ Dkt. 133.

¹¹ Dkt. No. 121

¹² Dkt. No. 1.

¹³ Dkt. No. 121.

¹⁴ *Id.*

terminating the national emergency at the southern border of the United States and directing “a careful review of all resources appropriated or redirected to construct a southern border wall” through the development of “a plan for the redirection of funds concerning the southern border wall.”¹⁵

8. The plan for the redirection of funds concerning the southern border wall is expected to be developed within 60 days from the date of the Proclamation.¹⁶
9. All parties in this case have been served pursuant to Rules 4 and 71.1 of the Federal Rules of Civil Procedure.
10. Construction has not yet begun on any of the nine subject property tracts, described as Tracts RGV-MCS 1004, RGV-MCS-1005E-1, RGV-MCS-1005E-2, RGV-MCS-1004E-3, RGV-MCS 1005-2, RGV-MCS-1107, RGV-MCS-1108, RGV-MCS-1108-2, and RGV-MCS-1108-3,¹⁷ or anywhere within the Village of Los Ebanos in Hidalgo County, Texas, where the subject property is located.
11. This Court has recently granted continuances in fee simple border wall condemnation cases based on the new circumstances presented by the Proclamation. *United States v. 6.584 Acres of Land, More or Less*, No. 7:20-CV-00244, Dkt. 55 (S.D. Tex. Feb. 2, 2021); *United States v. 0.501 Acres of Land, More or Less*, No. 7:20-CV-00066, Dkt. 35 (S.D. Tex. Feb. 2, 2021).
12. It is possible that the United States may need to amend its Amended Complaint¹⁸ once it determines final construction plans. Further, the plan for redirecting funding and repurposing contracts to be developed within 60 days of the Proclamation may impact design and construction plans and the necessity for any current and potential additional takings.

¹⁵ Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021).

¹⁶ *Id.* at Sec. 2.

¹⁷ Dkt. No. 121

¹⁸ *Id.*

13. Based on the foregoing, the United States and Defendant Pamela Rivas respectfully request the Court grant this Motion and enter an order continuing the deadlines set out in the Scheduling Order¹⁹ and Order Extending Discovery Deadline²⁰ for at least 60 days.

CERTIFICATE OF CONFERENCE

On February 2, 2021, undersigned counsel for Defendant Pamela Rivas conferred with the United States and both agree to the requested continuance and believe it is in the best interest of Defendant Rivas and the United States.

Dated: February 4, 2021

TEXAS CIVIL RIGHTS PROJECT

By: /s/ Karla Marisol Vargas
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¹⁹ Dkt. No. 127.

²⁰ Dkt. No. 133.

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CERTIFICATE OF SERVICE

I, Karla Marisol Vargas, hereby certify that on this 4th day of February 2021, a copy of the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure.

/s/ Karla Marisol Vargas
Karla Marisol Vargas
Attorney-in-Charge for Defendant Pamela
Rivas